From: Alexander Krumbach
To: Microsoft ATR
Date: 1/27/02 7:51pm
Subject: Microsoft Settlement

To Whom It May Concern:

I am opposed to the proposed settlement in the Microsoft antitrust trial. I feel that,while covering many vital aspects of the case, the current proposed settlement does not fully redress the actions committed by Microsoft in the past, nor inhibit their ability to commit similar Sherman violations in the future.

In the past, the people most hurt by Microsoft were not the hardware distributors or the existing middleware vendors, but the developers of new applications. With each new version of Windows, it has become increasingly impossible for any vendor outside of Microsoft to introduce a new feature -- such as Plug and Play or USB support -- to the market without Microsoft's collaboration. The potential new technologies that have been stifled by Microsoft's vice-like grip on innovation has done the market far more damage than could ever be measured in a dollar amount.

To this end, there is only one possible remedy.

Microsoft, as a software vendor, lives on its' intellectual property. That property does not only include the copyrights it holds on the source code to Windows and the other softwares it sells, but also the patents and trade secrets that Microsoft has, over the years, added to its' code to hinder competition. The copyright and or patent of code, while in some circles of dubious quality, is never categorized in the same manner as trade secrets. The computing sector has an interdependence of intellectual works never before seen in any industry, and the use of trade secrets is the greatest possible artificial barrier Microsoft has erected in its' illegal actions.

Furthermore, this action is in direct opposition of the actions of other software vendors. There are several standards bodies in the computing world, including the International Standards Organization [iso.org] who define standards in many fields, the Institute of Electronic and Electrical Engineers [ieee.org] who help define standards in hardware peripheral design, and the World Wide Web Consortium [w3c.org] devoted solely to Internet standards. The standards are open for public inspection and independent review, and encourage further development in the fields they cover.

I would suggest a single remedy appropriate to this problem: Microsoft must be forbidden to declare any portion of their product a trade secret, and as a result make available to public examination and independent re-implementation (for interoperability, educational and testing purposes only) technical specifications for all of their system APIs, file formats, media codecs, and any other method of system interaction not covered by a patent. The information

could be, at little cost, be added to Microsoft's Developer Network, found at msdn.microsoft.com.

The benefits of this action far outweigh the apparent dangers. First, this action is not as invasive as it may seem, still allowing Microsoft to protect its' current patents or copyrights, and no limit is levied against Microsoft for patenting further technologies. Second, this action does not greatly affect Microsoft's competition: most or all of the information to be disclosed has either been disclosed on the Microsoft Developer's Network or has been repeatedly legally reverse-engineered. Third, this completely removes the artificial barrier raised against the developers of new technologies.

While it may be noted that Microsoft is a member of many standards bodies, too numerous to mention in a short letter, as a developer in the computing industry I have noted a distinct trend on the part of Microsoft to abandon widely-held standards in favor of their own protocols and methods, often of similar or identical name to the official standard, and generally a trade secret. While I shall withhold judgment of such actions, it must be noted that they lead to an inevitable destruction of competition. The current settlement does not cover such actions; I therefore submit my solution to be considered as a part of additional action to prevent this violation of anti-trust law from being repeated.

I believe this action is the best possible remedy applicable to Microsoft. As shown by the antitrust trial, Microsoft has historically used the trade secrets cocooned into the products it sells to stifle competition and hamper entrance of new technologies into the market. The most direct and least intrusive method to end such practices would, of course, to remove the possibility of the same circumstances arising again. To this end, I suggest that measures be added to the settlement that would forbid further development of technologies within Microsoft to be declared a trade secret, for they are clearly only used in a violation of the law.
